

Title	<i>Answer—Unlawful Detainer</i> (revise Form 982.1(95))
Summary	The unlawful detainer answer form was revised to make it as comprehensive as the complaint form. Specific affirmative defenses were added to narrow the issues before trial, thereby promoting settlement or appropriate trial preparation and allowing the court to conduct a fair and effective trial.
Source	Civil and Small Claims Advisory Committee
Staff	Cara Vonk, 415-865-7669
Discussion	<p>Proposed revisions to the <i>Answer—Unlawful Detainer</i> (Form 982.1(95)) are the first step in a project to develop a comprehensive self-help package for both landlords and tenants in unlawful detainer cases. The current <i>Complaint—Unlawful Detainer</i> (Form 982.1(90)) is a complete and convenient checklist for stating a cause of action. The committee’s goal was to develop an answer form that is just as complete.</p> <p>The proposed revised form will benefit both parties by promoting settlement. It will benefit the landlord by providing notice of any defenses that will be claimed at trial. It will benefit the tenant because some courts now find that the general affirmative defense allegation that the premises are “uninhabitable” is insufficient for lack of specificity. Notice of a tenant’s defenses will help the court conduct a fair and effective trial because the parties will be prepared to litigate the issues in dispute and bring appropriate evidence to trial.</p> <p>In particular, the committee directs attention to Item 3.e., the defense that the notice to quit is defective. An added space allows the defendant to state what he or she believes the proper rent should be, information that may serve as a basis for settlement discussions. (See Item 3.e.(1).) Nine defenses are listed, but the committee welcomes comment on whether these are too many or whether others should be included. An “other” category has also been provided.</p> <p>The defendant is asked to describe how and when notice of breach of the warranty of habitability was given. (Item 3.a.) At least one committee member thought that a chart with boxes indicating “oral” or “written” and to whom notice was given should be included after each breach, and that the defendant could add a paragraph on a separate sheet of paper if more space was needed. However, most committee members believed that the notice should be described as shown under Item 3.a.(1). This method would give the defendant sufficient space if notice were given more than</p>

once, orally and in writing, and by more than one of the tenants. It is the committee's view that once the landlord knows what defenses are claimed, it is likely that the case will settle.

It is easy to leave out important information on the current unlawful detainer answer form since it is fairly general in its list of affirmative defenses that may be checked by a defendant. The form has been criticized because it does not provide sufficient information about the defendant's (tenant's) defenses to the plaintiff's (landlord's) complaint to help the plaintiff prepare for trial or to help settle the case. Some courts find that the current Judicial Council form does not provide for sufficient detail on the affirmative defense of breach of the covenant to provide habitable premises. Others have expressed concern that too much detail could provide a rote formula for overcoming an unlawful detainer action, or risk that the defendant will check every available box on the form. However, this has not been the experience of the Legal Aid Foundation of Los Angeles and other assistance organizations that have developed their own detailed unlawful detainer answer forms for clients.

In Los Angeles, the courts work with local legal services offices under the Equal Access Project, which includes a pro per self-help center and day-of-trial representation. The court found that court proceedings were being slowed down because parties were not prepared and were not bringing appropriate evidence for presentation at trial. An answer form developed by the Los Angeles legal aid office contains very specific affirmative defenses. The legal aid office stated that, in their experience, defendants do not tend to check all of the boxes, only those that apply in their particular cases, and that the information helps focus both parties on the key issues in dispute. The legal aid office is now also conducting a trial preparation clinic a couple of days before trial. These measures have greatly improved the fair and effective processing of unlawful detainer cases through the court system.

In the future, the committee plans to develop an information packet and instructions for self-represented landlords and tenants, including a template for including local information, after reviewing instructional materials developed by other courts and organizations. We welcome your comments and suggestions.

The revised *Answer—Unlawful Detainer* (Form 982.1(95)) and the current *Complaint—Unlawful Detainer* for comparison are attached.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number, and Address): TELEPHONE NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):	TELEPHONE NO.: FAX NO. (Optional): FOR COURT USE ONLY
NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<div style="text-align: center; font-size: 2em;">draft-6</div>
PLAINTIFF: DEFENDANT:	
<div style="text-align: center;">ANSWER—Unlawful Detainer</div>	CASE NUMBER:

1. Defendant (names):

answers the complaint as follows:

2. **Check ONLY ONE of the next two boxes:**

- a. ☐ Defendant generally denies each statement of the complaint. (Do not check this box if the complaint demands more than \$1,000.)
- b. ☐ Defendant admits that all of the statements of the complaint are true EXCEPT
- (1) Defendant denies the following statements of the complaint (use paragraph numbers from the complaint or explain):

☐ Continued on Attachment 2b(1).

- (2) Defendant has no information or belief that the following statements of the complaint are true, so defendant denies them (use paragraph numbers from the complaint or explain):

☐ Continued on Attachment 2b(2).

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

3. ☐ **AFFIRMATIVE DEFENSES** (**Note:** For each box checked, you must state brief facts to support it in the space provided on page three (item 3n).)

a. ☐ (Nonpayment of rent only) Plaintiff has breached the warranty to provide habitable premises.

(1) The following conditions exist at the premises (check box that applies, **and you must answer Item (2) below**):

- (i) ☐ Damp or leaking ceilings or walls
- (ii) ☐ Holes in walls, floor, or carpet
- (iii) ☐ Falling plaster or peeling paint
- (iv) ☐ Lack of or inadequate heat
- (v) ☐ Lack of or inadequate hot water
- (vi) ☐ Missing or torn window screens
- (vii) ☐ Missing or broken windows
- (viii) ☐ Defective or leaking plumbing
- (ix) ☐ Missing or broken smoke detectors
- (x) ☐ Infestation of roaches, rodents, insects, or vermin
- (xi) ☐ Unclean common areas
- (xii) ☐ Inadequate trash collection
- (xiii) ☐ Unsafe stairways or railings
- (xiv) ☐ Inadequate security or locks
- (xv) ☐ Defective electrical wiring
- (xvi) ☐ Other (specify):

(2) **Defendant gave notice of the above conditions to the plaintiff or the plaintiff's agent as follows (describe how notice was given and dates):**

☐ Continued on Attachment 3a(2).

(3) ☐ The condition was not fixed at least 60 days after notice was given as required by Civil Code section 1942.3.

b. ☐ (Nonpayment of rent only) Defendant made needed repairs and properly deducted the cost from the rent, and plaintiff did not give proper credit.

c. ☐ (Nonpayment of rent only) On (date): , before the notice to pay or quit expired, defendant offered the rent due but plaintiff would not accept it.

d. ☐ Plaintiff waived, changed, or canceled the notice to quit.

e. ☐ The notice to quit was defective because

(1) ☐ The notice demanded more rent than defendant owed. The correct amount is:

(2) ☐ The notice was not stated in the alternative — to "pay rent or quit."

(3) ☐ The notice was served before defendant's rent payment was late.

PLAINTIFF (Name):	CASE NUMBER:
DEFENDANT (Name):	

3. e. (4) ☐ The notice asked for rent for a period longer than one year.
- (5) ☐ Plaintiff failed to serve a 30-day notice to change the terms of defendant's tenancy.
- (6) ☐ The notice was not served.
- (7) ☐ The notice was not served in the way that the complaint stated the notice was served.
- (8) ☐ Plaintiff served multiple notices that confused defendant about what was expected.
- (9) ☐ The notice attached to the complaint is different from the notice that was served.
- (10) ☐ Other (*specify*):
- f. ☐ Plaintiff accepted rent from defendant to cover a period of time after the date the notice to quit expired.
- g. ☐ The complaint was filed before the time period in the notice to quit expired.
- h. ☐ Plaintiff had agreed to allow defendant to pay the rent late.
- i. ☐ Defendant's rent is current. Plaintiff served defendant with the notice to quit or filed the complaint to retaliate against defendant because:
- (1) ☐ Defendant complained to a government agency concerning the premises.
- (Date): (Name of agency):
- (2) ☐ Defendant complained to the plaintiff or the plaintiff's agent concerning the premises.
- (Date): (Name of agent):
- (3) ☐ Other (*specify*):
- j. ☐ By serving defendant with the notice to quit or filing the complaint, plaintiff is arbitrarily discriminating against the defendant in violation of the Constitution or laws of the United States or California.
- k. ☐ Defendant resides in public or subsidized housing and plaintiff has not complied with the requirements to evict a resident of such housing.
- l. ☐ Plaintiff's demand for possession violates the local rent control or eviction control ordinance.
- City Title of ordinance Date of passage
- (1) ☐ Plaintiff demanded more than the legal amount of rent.
- (2) ☐ Plaintiff did not register the premises.
- (3) ☐ Plaintiff did not serve a written notice stating the specific facts that are the reasons for termination.
- (4) ☐ Plaintiff does not have cause for the eviction.
- (5) ☐ Plaintiff has failed to pay relocation assistance.
- (6) ☐ Other (*specify*):
- m. ☐ Other affirmative defenses (*specify*):
- n. ☐ Facts supporting affirmative defenses checked above (*identify each item separately by its letter from Item 3 on pages 2–3*):
- (1) ☐ All the facts are stated in Attachment 3n.
- (2) ☐ Facts are continued in Attachment 3n.

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4. OTHER STATEMENTS

- a. ☐ Defendant vacated the premises on (date):
- b. ☐ The fair rental value of the premises alleged in the complaint is excessive (explain):
- c. ☐ Other (specify):

5. DEFENDANT REQUESTS

- a. That plaintiff take nothing requested in the complaint.
- b. Costs incurred in this proceeding.
- c. ☐ Reasonable attorney fees.
- d. ☐ That plaintiff be ordered to (1) make repairs and correct the conditions that constitute a breach of the warranty to provide habitable premises and (2) reduce the monthly rent to a reasonable rental value until the conditions are corrected.
- e. ☐ Other (specify):

6. ☐ Number of pages attached (specify): _____

UNLAWFUL DETAINER ASSISTANT (Business and Professions Code, sections 6400–6415)

7. (Must be completed in all cases) An **unlawful detainer assistant** ☐ did **not** ☐ did for compensation give advice or assistance with this form. (If defendant has received **any** help or advice for pay from an unlawful detainer assistant, state the following.)

- a. Assistant's name:
- b. Telephone No.:
- c. Street address, city, and ZIP:
- d. County of registration:
- e. Registration No.:
- f. Expires on (date):

.....
(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF DEFENDANT OR ATTORNEY)

.....
(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF DEFENDANT OR ATTORNEY)

(Each defendant for whom this answer is filed must be named in item 1 **and** must sign this answer unless his or her attorney signs.)

VERIFICATION

(Use a different verification form if the verification is by an attorney or for a corporation or partnership.)

I am the defendant in this proceeding and have read this answer. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
Date:

.....
(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF DEFENDANT)